

that the following are inapplicable to the applicant: Article 20(1)(b) of Decision 2010/413; Article 16(2) of Regulation No 961/2010; Article 1(7) of Council Decision 2012/35/CFSP of 23 January 2012 amending Decision 2010/413 (OJ 2012 L 19, p. 22); Article 23(2) of Regulation No 267/2012; Article 1(8) of Council Decision 2012/635/CFSP of 15 October 2012 amending Decision 2010/413 (OJ 2012 L 282, p. 58); Article 1(11) of Council Regulation (EU) No 1263/2012 of 21 December 2012 amending Regulation No 267/2012 (OJ 2012 L 356, p. 34); and Article 1(2) of Council Decision 2012/829/CFSP of 21 December 2012 amending Decision 2010/413 (OJ 2012 L 356, p. 71).

### Operative part of the judgment

The Court:

1. Declares the action inadmissible, in so far as it seeks the annulment of any future regulation or decision of the Council of the European Union or of the European Commission which would supplement or amend any of the measures contested in the present action;
2. Declares that there is no need to adjudicate on the claim for annulment of the decisions in respect of Post Bank Iran 'contained in' the letter from the Council received on 29 October 2010 and the letter from the Council dated 5 December 2011, or on the plea of inadmissibility raised by the Council, supported by the Commission, solely in respect of the claim for annulment of the decision regarding Post Bank Iran 'contained in' the letter from the Council received on 29 October 2010;
3. Annuls, in so far as they concern Post Bank Iran, Annex II to Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP, as amended by Council Decision 2010/644/CFSP of 25 October 2010; Annex VIII to Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007; Council Decision 2011/783/CFSP of 1 December 2011 amending Decision 2010/413; Council Implementing Regulation (EU) No 1245/2011 of 1 December 2011 implementing Regulation No 961/2010; and Annex IX to Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation No 961/2010;
4. Orders the effects of Annex II to Decision 2010/413, as amended by Decision 2010/644 and subsequently by Decision 2011/783, to be maintained as regards Post Bank Iran until the annulment of Annex IX to Regulation No 267/2012 takes effect, in so far as Annex IX concerns Post Bank Iran;
5. Orders the Council to bear its own costs and to pay those incurred by Post Bank Iran;

6. Orders the Commission to bear its own costs.

(<sup>1</sup>) OJ C 63, 26.2.2011.

### Judgment of the General Court of 6 September 2013 — Bank Refah Kargaran v Council

(Case T-24/11) (<sup>1</sup>)

**(Common foreign and security policy — Restrictive measures against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Obligation to state reasons — Rights of the defence — Right to effective judicial protection)**

(2013/C 304/24)

Language of the case: French

#### Parties

**Applicant:** Bank Refah Kargaran (Tehran, Iran) (represented by: J.-M. Thouvenin, lawyer)

**Defendant:** Council of the European Union (represented by: M. Bishop and R. Liudvinaviciute-Cordeiro, acting as Agents)

**Intervener in support of the defendant:** European Commission (represented initially by F. Erlbacher and M. Konstantinidis, and subsequently by A. Bordes and M. Konstantinidis, acting as Agents)

#### Re:

Application for (i) a declaration that Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39) is inapplicable to the applicant; (ii) annulment of Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (OJ 2010 L 281, p. 1), Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation No 961/2010 (OJ 2012 L 88, p. 1), and Council Regulation (EU) No 1263/2012 of 21 December 2012 amending Regulation No 267/2012 (OJ 2012 L 356, p. 34), and of all future regulations which might supplement or replace those regulations pending final judgment in the action, in so far as those acts concern the applicant; (iii) annulment of Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413 (OJ 2010 L 281, p. 81), Council Decision 2011/783/CFSP of 1 December 2011 amending Decision 2010/413 (OJ 2011 L 319, p. 71), Council Implementing Regulation (EU) No 1245/2011 of 1 December 2011 implementing Regulation No 961/2010 (OJ 2011 L 319, p. 11), and Council Decision 2012/829/CFSP of 21 December 2012 amending Decision 2010/413 (OJ 2012 L 356, p. 71), and of all future measures which might supplement or replace those measures pending final

judgment in the action, in so far as those measures concern the applicant; and (iv) annulment of the decisions contained in the letters of 28 October 2010 and 5 December 2011.

### Operative part of the judgment

The Court:

1. Annuls the following measures in so far as they concern Bank Refah Kargaran:

— Annex II to Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP, as amended by Council Decision 2010/644/CFSP of 25 October 2010, and subsequently by Council Decision 2011/783/CFSP of 1 December 2011;

— Decision 2010/644;

— Annex VIII to Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007, as amended by Council Implementing Regulation (EU) No 1245/2011 of 1 December 2011 implementing Regulation No 961/2010;

— Decision 2011/783;

— Implementing Regulation No 1245/2011;

— Annex IX to Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation No 961/2010;

2. Orders the effects of Annex II to Decision 2010/413, as amended by Decision 2010/644 and subsequently by Decision 2011/783, to be maintained as regards Bank Refah Kargaran until the annulment of Annex IX to Regulation No 267/2012 takes effect, in so far as it concerns Bank Refah Kargaran;

3. Declares that there is no need to adjudicate on the application for a declaration that Decision 2010/413 is not applicable to Bank Refah Kargaran;

4. Dismisses the action as to the remainder;

5. Orders the Council of the European Union to bear its own costs and to pay the costs of Bank Refah Kargaran;

6. Orders the European Commission to bear its own costs.

(<sup>1</sup>) OJ C 80, 12.3.2011.

### Judgment of the General Court of 6 September 2013 — Deutsche Bahn and Others v Commission

(Joined Cases T-289/11, T-290/11 and T-521/11) (<sup>1</sup>)

(**Competition — Administrative procedure — Decision ordering an inspection — Inspection powers of the Commission — Rights of the defence — Proportionality — Duty to state reasons**)

(2013/C 304/25)

Language of the case: German

#### Parties

**Applicants:** Deutsche Bahn AG (Berlin, Germany); DB Mobility Logistics AG (Berlin); DB Energie GmbH (Frankfurt-am-Main, Germany); DB Netz AG (Frankfurt-am-Main); DB Schenker Rail GmbH (Mainz, Germany); DB Schenker Rail Deutschland AG (Mainz); Deutsche Umschlaggesellschaft Schiene-Straße mbH (DUSS) (Bodenheim, Germany) (represented by: W. Dese-laers, O. Mross and J. Brückner, lawyers)

**Defendant:** European Commission (represented by: L. Malferrari, N. von Lingen and R. Sauer, acting as Agents)

**Interveners in support of the form of order sought by the defendant:** Kingdom of Spain (represented initially, in Cases T-289/11 and T-290/11, by: M. Muñoz Pérez, then, in Cases T-289/11, T-290/11 and T-521/11, by: S. Centeno Huerta, abogados del Estado); Council of the European Union (represented by: M. Simm and F. Florindo Gijón, acting as Agents); and EFTA Surveillance Authority (represented by: X.A. Lewis, M. Schneider and M. Moustakali, acting as Agents)

#### Re:

Annulment of Commission Decisions C(2011)1774 of 14 March 2011, C(2011) 2365 of 30 March 2011 and C(2011) 5230 of 14 July 2011 ordering Deutsche Bahn AG and all its subsidiaries, to submit to inspections under Article 20(4) of Council Regulation (EC) No 1/2003, (Cases COMP/39.678 and COMP/39.731).

### Operative part of the judgment

The Court:

1. Dismisses the actions;

2. Orders Deutsche Bahn AG, DB Mobility Logistics AG, DB Energie GmbH, DB Netz AG, DB Schenker Rail GmbH, DB Schenker Rail Deutschland AG and Deutsche Umschlaggesellschaft Schiene-Straße mbH (DUSS) to pay the costs incurred by the European Commission and to bear their own costs;